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From: Kamke, Sherry
Sent: Sat 9/12/2015 7:52:23 PM
Subject: Potential Paths forward on TEA Priority

Dee,

I wanted to provide some thoughts about the path forward on the TEA. I think we are moving quickly on the Tower Stand LUST site, coordinating where we can on workplan review and setting up to do split samples. That is clearly the priority for the tribe. I want to focus a bit more on the Lac du Flambeau Pilot LUST program (#3 in Larry's July 29th letter to Margaret Guerriero). Bob and I have had a series of call with the Office of Underground Storage Tanks (OUST) to find out what has been done before with other tribes and what we might be able to do with Lac du Flambeau.

Some information about what has been done before:

There are cases where a tribe has received LUST cleanup money via a grant to do direct implementation activities at a LUST site. Navajo has done a couple of cleanups directly. Nez Perce have received grant funding to do direct field work at a LUST site and they made a great case for grant funding because they showed that some field work can be done more efficiently by the tribe and personnel were properly trained for the task. Region 8 has given grant money (Randy who presented at the tribal lands forum) received LUST grant funding to pull groundwater monitoring well samples. In all cases where grant money was given to the tribes, the money was used to pay salary of tribal environmental staff to do direct field work or hire a contractor (like the Navajo did) to do cleanup work. We can spend LUST Trust money to do oversight at RP lead site.

There is no history of grant money being given to tribes to go back to closed sites to evaluate them. Likewise, there is very limited amount of history where does enforcement on behalf of the EPA. There isn't any history of LUST enforcement being done by a tribe on behalf of EPA. The Navajo pilot is in place where the tribe is enforcing on the prevention side but not the LUST side. In that case, the tribe is moving forward with issuing field citations.

What is possible:

There is not a reason that EPA can't give LUST cleanup grant money to a tribe to investigate sites. The use of the funds for this reason is allowable. We may not be able to allow the tribe to enforce on our behalf. This will have to be explored if the tribe is interested in pursuing that. So, yes we can give LUST cleanup money to a tribe to pay for salary of tribal environmental professional or give money to the tribe so they can hire a contractor to do site work. The question is do we have enough money. This has to be compete with all other LUST cleanup needs for tribes across the country. Demand for cleanup dollars has exceed supply for the last four to five years and the gap is growing.

Many activities are allowable (which is good) but the real question is do we have money to do what is being contemplated. We might have to prioritize and/or do things in a step-wise manner. We need a better understanding of what LUST cleanup work LDF would want to do under the pilot. We need a better estimate of how much money might be required to do the work as envisioned.

In particular, we have a few questions about what LDF wants to pursue with the pilot.

- 1) What did you mean about enforcement under #3? Are you meaning enforcing under tribal code or are you looking to enforce federal regulations? If it is the later, then we need to involve HQ offices such as OECA in reviewing this.
- 2) Also, we need to find out which of the 25 LUST sites are federally regulated tanks. Are all 25 LUST sites that you are concerned with Subtitle I regulated tanks or are some of the LUST sites from heating oil tanks that had releases?
- 3) We also would like to know if the initial task you visualize for the pilot involves looking at DNR files (file review) or is there other filed work that you believe should be done? Is there a way to prioritize the sites of concern? In order to fund work we may have to start with a sub-set of the 25.

I know that there is a lot going on next week. Maybe we can set aside some time when you have had a chance to review this. Please send me an email or call. Thank you.

Sherry A. Kamke

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